

109TH CONGRESS
1ST SESSION

H. R. 1059

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as “Don’t Ask, Don’t Tell”, with a policy of nondiscrimination on the basis of sexual orientation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2005

Mr. MEEHAN (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Ms. BALDWIN, Mr. BECERRA, Mr. BERMAN, Ms. BERKLEY, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. CAPUANO, Mrs. CAPPs, Mr. CROWLEY, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. ENGEL, Mr. FARR, Mr. FRANK of Massachusetts, Ms. HARMAN, Mr. HINCHEY, Ms. NORTON, Mr. HOLT, Mr. HONDA, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. LANGEVIN, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. LEE, Ms. ZOE LOFGREN of California, Ms. MCCOLLUM of Minnesota, Mr. McDERMOTT, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. NADLER, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHAYS, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as “Don’t Ask, Don’t Tell”, with a policy of nondiscrimination on the basis of sexual orientation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Readiness En-
5 hancement Act of 2005”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to institute in the Armed
8 Forces a policy of nondiscrimination based on sexual ori-
9 entation.

10 **SEC. 3. REPEAL OF 1993 POLICY CONCERNING HOMOSEX-**
11 **UALITY IN THE ARMED FORCES.**

12 The following provisions of law are repealed:

13 (1) Section 654 of title 10, United States Code.

14 (2) Subsections (b), (c), and (d) of section 571
15 of the National Defense Authorization Act for Fiscal
16 Year 1994 (10 U.S.C. 654 note).

17 **SEC. 4. ESTABLISHMENT OF POLICY OF NONDISCRIMINA-**
18 **TION BASED ON SEXUAL ORIENTATION IN**
19 **THE ARMED FORCES.**

20 (a) ESTABLISHMENT OF POLICY.—(1) Chapter 37 of
21 title 10, United States Code, is amended by adding at the
22 end the following new section:

1 **“§ 656. Policy of nondiscrimination based on sexual**
2 **orientation**

3 “(a) POLICY.—The Secretary of Defense, and the
4 Secretary of Homeland Security with respect to the Coast
5 Guard when it is not operating as a service in the Navy,
6 may not discriminate on the basis of sexual orientation
7 against any member of the armed forces or against any
8 person seeking to become a member of the armed forces.

9 “(b) DISCRIMINATION ON BASIS OF SEXUAL ORI-
10 ENTATION.—For purposes of this section, discrimination
11 on the basis of sexual orientation is—

12 “(1) in the case of a member of the armed
13 forces, the taking of any personnel or administrative
14 action (including any action relating to promotion,
15 demotion, evaluation, selection for an award, selec-
16 tion for a duty assignment, transfer, or separation)
17 in whole or in part on the basis of sexual orienta-
18 tion; and

19 “(2) in the case of a person seeking to become
20 a member of the armed forces, denial of accession
21 into the armed forces in whole or in part on the
22 basis of sexual orientation.

23 “(c) PERSONNEL AND ADMINISTRATIVE POLICIES
24 AND ACTION.—The Secretary of Defense, and the Sec-
25 retary of Homeland Security with respect to the Coast
26 Guard when it is not operating as a service in the Navy,

1 may not establish, implement, or apply any personnel or
2 administrative policy, or take any personnel or administra-
3 tive action (including any policy or action relating to pro-
4 motions, demotions, evaluations, selections for awards, se-
5 lections for duty assignments, transfers, or separations)
6 in whole or in part on the basis of sexual orientation.

7 “(d) RULES AND POLICIES REGARDING CONDUCT.—
8 Nothing in this section prohibits the Secretary of Defense,
9 and the Secretary of Homeland Security with respect to
10 the Coast Guard when it is not operating as a service in
11 the Navy, from prescribing or enforcing regulations gov-
12 erning the conduct of members of the armed forces if the
13 regulations are designed and applied without regard to
14 sexual orientation.

15 “(e) RE-ACCESSION OF OTHERWISE QUALIFIED
16 PERSONS PERMITTED.—Any person separated from the
17 armed forces for homosexuality, bisexuality, or homo-
18 sexual conduct in accordance with laws and regulations
19 in effect before the date of the enactment of this section,
20 if otherwise qualified for re-accession into the armed
21 forces, shall not be prohibited from re-accession into the
22 armed forces on the sole basis of such separation.

23 “(f) SEXUAL ORIENTATION.—In this section, the
24 term ‘sexual orientation’ means heterosexuality, homosex-
25 uality, or bisexuality, whether the orientation is real or

1 perceived, and includes statements and consensual sexual
 2 conduct manifesting heterosexuality, homosexuality, or bi-
 3 sexuality.”.

4 (2) The table of sections at the beginning of such
 5 chapter is amended—

6 (A) by striking the item relating to section 654;

7 and

8 (B) by adding at the end the following new
 9 item:

“656. Policy of nondiscrimination based on sexual orientation in the armed
 forces.”.

10 (b) CONFORMING AMENDMENTS.—Title 10, United
 11 States Code, is amended as follows:

12 (1) Section 481 is amended—

13 (A) In subsection (a)(2), by inserting “, in-
 14 cluding sexual orientation discrimination,” after
 15 “discrimination” in subparagraphs (C) and (D);
 16 and

17 (B) in subsection (c), by inserting “and
 18 sexual orientation-based” after “gender-based”.

19 (2) Section 983(a)(1) is amended by striking
 20 “(in accordance with section 654 of this title and
 21 other applicable Federal laws)”.

22 (3) Section 1034(i)(3) is amended by inserting
 23 “sexual orientation,” after “sex,”.

1 **SEC. 5. BENEFITS.**

2 Nothing in this Act, or the amendments made by this
3 Act, shall be construed to require the furnishing of de-
4 pendent benefits in violation of section 7 of title 1, United
5 States Code (relating to the definitions of “marriage” and
6 “spouse” and referred to as the “Defense of Marriage
7 Act”).

8 **SEC. 6. NO PRIVATE CAUSE OF ACTION FOR DAMAGES.**

9 Nothing in this Act, or the amendments made by this
10 Act, shall be construed to create a private cause of action
11 for damages.

12 **SEC. 7. REGULATIONS.**

13 (a) IN GENERAL.—Not later than 90 days after the
14 date of the enactment of this Act, the Secretary of Defense
15 shall revise Department of Defense regulations, and shall
16 issue such new regulations as may be necessary, to imple-
17 ment section 656 of title 10, United States Code, as added
18 by section 4(a). The Secretary of Defense shall further
19 direct the Secretary of each military department to revise
20 regulations of that military department in accordance with
21 section 656 of title 10, United States Code, as added by
22 section 4(a), not later than 180 days after the date of the
23 enactment of this Act. Such revisions shall include the fol-
24 lowing:

25 (1) Revision of all equal opportunity and
26 human relations regulations, directives, and instruc-

1 tions to add sexual orientation nondiscrimination to
2 the Department of Defense Equal Opportunity pol-
3 icy and to related human relations training pro-
4 grams.

5 (2) Revision of Department of Defense and
6 military department personnel regulations to elimi-
7 nate procedures for involuntary discharges based on
8 sexual orientation.

9 (3) Revision of Department of Defense and
10 military department regulations governing victims'
11 advocacy programs to include sexual orientation dis-
12 crimination among the forms of discrimination for
13 which members of the Armed Forces and their fami-
14 lies may seek assistance.

15 (b) REGULATION OF CONDUCT.—The Secretary of
16 Defense, and the Secretary of Homeland Security with re-
17 spect to the Coast Guard when it is not operating as a
18 service in the Navy, shall ensure that regulations gov-
19 erning the personal conduct of members of the Armed
20 Forces shall be written and enforced without regard to
21 sexual orientation.

22 (c) DEFINITION.—In this section, the term “sexual
23 orientation” has the meaning given that term in section

1 656(f) of title 10, United States Code, as added by section
2 4(a).

